

ORIGINAL

29

ANN BAVENDER\*  
ANNE GOODWIN CRUMP  
VINCENT J. CURTIS, JR.  
RICHARD J. ESTEVEZ  
PAUL J. FELDMAN  
RICHARD HILDRETH  
FRANK R. JAZZO  
ANDREW S. KERSTING  
EUGENE M. LAWSON, JR.  
SUSAN A. MARSHALL\*  
HARRY C. MARTIN  
GEORGE PETRUTSAS  
RAYMOND J. QUIANZON  
LEONARD R. RAISH  
JAMES P. RILEY  
KATHLEEN VICTORY  
HOWARD M. WEISS  
ALISON J. SHAPIRO  
\* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET  
ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

March 3, 2000

FRANK U. FLETCHER  
(1939-1985)  
ROBERT L. HEALD  
(1956-1983)  
PAUL D.P. SPEARMAN  
(1936-1962)  
FRANK ROBERSON  
(1936-1961)  
RUSSELL ROWELL  
(1948-1977)  
EDWARD F. KENEHAN  
(1960-1978)

CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)

OF COUNSEL  
EDWARD A. CAINE\*  
MITCHELL LAZARUS\*  
EDWARD S. O'NEILL\*  
JOHN JOSEPH SMITH

WRITER'S DIRECT

DOCKET FILE COPY ORIGINAL

RECEIVED  
MAR 03 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND DELIVERY**

Magalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, D.C. 20554

Re: Petition for Rule Making  
New Iberia, Louisiana

Dear Ms. Salas:

Transmitted herewith, on behalf of Iberia Communications, L.L.C. are an original and four copies of its "Petition for Rule Making" in which it requests the substitution of Channel 53 for Channel 36 at New Iberia, Louisiana.

Should any further information be required concerning this matter, please communicate with this office.

Very truly yours,  
FLETCHER, HEALD & HILDRETH, P.L.C.



Anne Goodwin Crump  
Counsel for Iberia Communications, L.L.C.

AGC:mah  
Enclosures

No. of Copies rec'd 014  
List ABCDE  
MMB

ORIGINAL

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

RECEIVED  
MAR 03 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.606(b), )  
Table of Allotments, Television Broadcast Stations. )  
(New Iberia, Louisiana) )

MM DOCKET NO. \_\_\_\_\_  
RM- \_\_\_\_\_

Directed to: Chief, Mass Media Bureau

**PETITION FOR RULE MAKING**

Iberia Communications, L.L.C. ("Iberia Communications"), by its attorneys and pursuant to the Commission's *Public Notice*, DA 99-2605, released November 22, 1999, hereby respectfully requests that the Commission amend Section 73.606(b) of its Rules, the Table of Allotments for Television Broadcast Stations, to substitute Channel 53 for Channel 36 at New Iberia, Louisiana. With respect thereto, the following is submitted:

1. The instant petition for rule making represents another step in the long effort to bring a first local television transmission service to the community of New Iberia, Louisiana. Iberia Communications is an applicant (File No. BPCT-960612KF) for a construction permit for a new television station to operate on Channel 36, which is currently allotted to New Iberia. New Iberia 36, L.L.C. also submitted a mutually application for construction permit for the Channel 36 allotment. A Settlement Agreement has been reached between these parties, with Iberia Communications to be the surviving applicant. A "Joint Request for Approval of Settlement Agreement" was filed with the Commission on January 23, 1998.

2. Iberia Communications filed its application for construction permit on June 12, 1996,

prior to the September 20, 1996 cut-off date for filing applications for new NTSC facilities. Since New Iberia is located sufficiently close to New Orleans, Louisiana, to be within the zone subject to a “freeze” on the filing of new applications for construction permit,<sup>1</sup> Iberia Communications sought a waiver of the Freeze Order. While the Commission initially proposed a Table of Allotments for Digital Television (DTV) which would have precluded the use of Channel 36 at New Iberia (*Sixth Further Notice of Proposed Rule Making*, 11 FCC Rcd 10986 (1996)), the DTV Table of Allotments ultimately adopted accommodated the use of Channel 36 for a new NTSC station at New Iberia. *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, FCC 98-315, released December 18, 1998. Iberia Communications amended its application in August 1999 to protect all then-known DTV facilities or proposals.

3. Subsequently, however, in a “Petition for Rule Making” filed September 14, 1999, the licensee for WWL-DT, New Orleans, Louisiana, proposed to use DTV Channel 36 in lieu of its assigned DTV Channel 30. As set forth in the attached Engineering Statement, prepared by Cavell, Mertz & Davis, the facilities proposed in the Iberia Communications application as amended are predicted to cause interference to 82,604 persons, or 4.64 percent of the population, within the WWL-DT proposed service area. Furthermore, it was determined that Iberia Communications’ Channel 36 application could not be suitably modified in a way that would not only avoid causing interference to DTV, but also meet the NTSC spacing criteria and provide the required signal coverage of New Iberia. *See Engineering Statement*. Consequently, a change in

---

<sup>1</sup> *Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, RM-5811, 52 Fed. Reg. 28346 (1987) (“Freeze Order”).

channel is required in order to allow a new first local, television service to be brought to New Iberia.

4. The provision of a first local television service is of particularly great importance to the community of New Iberia, which is physically and culturally isolated from existing television markets and largely unserved by existing television stations. New Iberia, a city of 32,568 (U.S. Bureau of the Census, County and City Data Book: 1994), is the parish seat of Iberia Parish, which has a population of 71,800. *RandMcNally Atlas and Marketing Guide 1999* at 354. New Iberia and Iberia Parish are located in southeastern Acadiana, a culturally distinct region in southern Louisiana. The region has a unique cultural, political, and social structure, with historical roots established centuries ago. Settled by French Acadian immigrants (Cajuns) in the 1700's, the area also has a significant Spanish heritage. In fact, the city of New Iberia is the only remaining town in Louisiana founded by the Spanish. The combination of influences in this area have created the well-known and unique blend of culture, history, music, cooking, and language, found nowhere else in the world.

5. Residents of Acadiana, particularly those in the lesser populated area surrounding New Iberia, share few cultural and social ties with the Baton Rouge television market, which is dominated by a larger city and characterized by extensive industrial development. Language also serves as a dividing line, since half of the residents of Iberia Parish are of French-Acadian ancestry, and close to 20 percent still speak the Cajun-French language at home. This cultural separation is combined with the geographical separation of the Atchafalaya River, with New Iberia on the western side and Baton Rouge to the east. Further adding to the separation is the fact that there are no main roads leading from New Iberia to Baton Rouge. To reach Baton

Rouge, New Iberia residents must first drive northwest to Lafayette before heading back east toward Baton Rouge. Additionally, Lafayette, Baton Rouge, and New Orleans are located along the Interstate-10 corridor, while New Iberia is accessed by Highway 90.

6. As a result, New Iberia and the surrounding small communities receive little coverage of local news events from either Lafayette or Baton Rouge television stations. New Iberia and Iberia Parish government and school board meetings are not covered on a regular basis by any of these stations, nor is there an outlet for local public affairs television programming. A New Iberia television station is therefore needed to serve the public interest through regular news, sports, and weather coverage. This need is particularly acute during the area's many weather emergencies, such as the hurricanes which frequently attack southern Louisiana. Since New Iberia is located in an area which frequently must be evacuated during hurricane threats, local weather warnings and information regarding hurricane evacuation routes and centers are crucial to public safety in the area.

7. Moreover, the area is one which is thriving economically. The Port of Iberia is the largest and oldest shallow-draught port in Louisiana and is home to numerous tenants involved in multi-million dollar fabrication projects. International shipments are now received at the port. The Port of Iberia also offers a direct access channel to the Gulf of Mexico which is unobstructed by overhead lines. In addition, three of the largest salt mines in the world are located in Iberia Parish. Acadiana Regional Airport also is located in Iberia Parish, and an industrial park is located at the same site. This industrial park is home to a number of industries.

8. A number of letters written by local leaders to express their support for a new local television station previously have been submitted to the Commission. Those writing letters have

included the Mayor of New Iberia, the District Attorney of Iberia, St. Martin, and St. Mary Parishes, the Parish President of Iberia Parish, the State Representative for the district, the State Senator for the area, the Executive Director of the Port of Iberia, mayors of three surrounding communities, and the President of the J. Leo Hardy Branch (New Iberia) of the NAACP. In addition, U.S. Senator John Breaux and Representative Billy Tauzin sent a letter supporting the new station.

9. As demonstrated in the Engineering Statement, Channel 53 may be allotted to New Iberia as a substitute for Channel 36 in accordance with the Commission's Rules and policies. The minimum distance spacing requirements for NTSC facilities are met. In addition, the substitution will not impact any DTV facility. Finally, the required principal community coverage to New Iberia would be provided.

10. The Commission has invited petitions for rule making to make such channel substitutions in order to eliminate conflicts with DTV stations or proposals. Since the currently proposed use of Channel 36 at New Iberia would create interference with the proposed use of Channel 36 for WWL-DT, New Orleans, the instant petition for rule making meets the requirements set forth in the Commission's *Public Notice*, DA 99-2605.

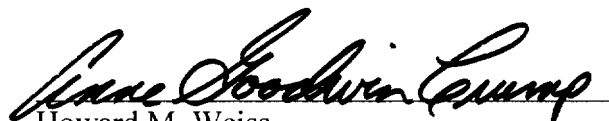
11. In sum, the proposed channel substitution would serve the public interest by allowing for a much-needed first local television transmission service for New Iberia. The public interest benefits of the substitution can be realized without any countervailing detriment, as the requested allotment is in accordance with the Commission's Rules and policies. Accordingly, the Television Table of Allotments should be amended to substitute Channel 53 for Channel 36 at New Iberia.

WHEREFORE, the premises considered, Iberia Communications hereby respectfully requests that the Commission amend Section 73.606(b) of its Rules, the Television Table of Allotments, to allot Channel 53 to New Iberia in lieu of Channel 36.

Respectfully submitted,

IBERIA COMMUNICATIONS, L.L.C.

By:

A handwritten signature in cursive script, appearing to read "Anne Goodwin Crump", written over a horizontal line.

Howard M. Weiss

Anne Goodwin Crump

Its Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street  
Eleventh Floor  
Arlington, Virginia 22209  
(703) 812-0400

March 3, 2000

Engineering Statement  
prepared for  
**Iberia Communications, L.L.C.**  
New Iberia, Louisiana  
Ch. 53 5000 kW 307 m

ORIGINAL

This engineering statement has been prepared on behalf of *Iberia Communications, L.L.C.* (*Iberia*), in support of a *Petition for Rulemaking*. *Iberia* is an applicant for vacant NTSC (analog) television Channel 36, allotted to New Iberia, Louisiana (file number BPCT-960612KF, as amended). *Iberia's* application is mutually exclusive with an application filed by *New Iberia 36, L.L.C.* ("*Iberia 36*") (file number BPCT-960920YI), also specifying the vacant New Iberia NTSC Channel 36. *Iberia* has reached a settlement agreement with *Iberia 36* which removes the mutually exclusive situation.

Further, *Iberia's* application specified a site was within a "freeze" area regarding Advanced Television.<sup>1</sup> The recent amendments to the pending *Iberia* application have proposed technical changes that would have resulted in no impact on any then-known digital television (DTV) facility or proposal.

Most recently, in a "Petition for Rulemaking" (filed September 14, 1999) the licensee for WWL-DT (New Orleans, LA) is proposing to use DTV Channel 36 in lieu of its assigned DTV Channel 30. *Iberia's* pending proposal for a new NTSC facility at New Iberia on Channel 36, as most recently amended, is located 169.9 km from WWL-DT, and would cause interference to 82,604 persons, or 4.64 percent of the population, within the WWL-DT service area. This would exceed current FCC restrictions on NTSC interference to DTV stations, which do not permit the creation of any new interference, when rounded to the nearest whole percent.

Alternate sites and other possible technical changes to the *Iberia* proposal were explored. It was determined that the Channel 36 facility proposed by *Iberia* could not be suitably modified to avoid causing interference to DTV, meet NTSC spacing criteria, and still provide effective coverage to New Iberia and the surrounding area. Accordingly, a substitute NTSC channel is proposed herein for New Iberia, Louisiana.

---

<sup>1</sup>See RM-5811, Advanced Television Systems and Their Impact on the Existing Television Broadcast Service.



## Discussion

An engineering review of the DTV allotments and NTSC assignments in the region surrounding New Iberia showed that an alternate channel could be used for the Channel 36 NTSC allotment. The minimum distance separation requirements of §73.610 and §73.698 were applied to NTSC assignments. With respect to DTV allotments and facilities, detailed interference studies were conducted in accordance with the terrain dependent Longley-Rice point-to-point propagation model, per the Commission's Office of Engineering and Technology Bulletin number 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, July 2, 1997 ("OET-69").<sup>1</sup> The studies showed that Channel 53 could be used at New Iberia at 5000 kW effective radiated power (ERP) and an antenna height above average terrain (HAAT) of 307 meters.

The technical data for the proposed Channel 53 allotment are summarized on the following page. The same transmitting location and antenna height as that currently proposed for NTSC Channel 36 are specified. A predicted coverage contour map is provided as **Figure 1** which shows that New Iberia is fully encompassed by the proposed City Grade (80 dBμ) contour.

---

<sup>1</sup>The implementation of OET-69 for this study followed the guidelines of OET-69 as specified therein, except that the terrain profile step size is 0.1 km (which provides a finer resolution than the Commission's standard 1 km step size). A standard cell size of 2 km was used. The Longley-Rice computer program input data, following the guidelines established under OET-69, includes a location variability of 50%, a time availability of 10%, a situation variability of 50%, horizontal polarization, 0.005 S/m conductivity, a climate constant of 15, an assumption of a continental temperate climate zone, and a receive antenna height of 10 meters. The service area for each DTV facility under study is that area predicted to receive signal levels of at least 41 dBμ using the Longley-Rice methodology, and within the DTV F(50,90) service contour distance as determined per §73.625(b). In instances where the DTV reference ERP is 1,000 kW, the Grade B contour of the associated analog station is used to determine the extent of the DTV station's service area per §73.622(e)(1). The F(50,90) DTV service contour level is established by the formula  $41 - 20\log[615/(\text{channel mid-frequency})]$  dBμ. The service area for each NTSC facility under study is that area predicted to receive signal levels of at least 64 dBμ using the Longley-Rice methodology, and within the NTSC F(50,50) service contour distance as determined per §73.684(c). The F(50,50) NTSC service contour level is established by the formula  $64 - 20\log[615/(\text{channel mid-frequency})]$  dBμ. Comparisons of various results of this computer program to the Commission's implementation of OET-69 show good correlation.

Engineering Statement

(page 3 of 5)

**Summary Technical Data for Proposed NTSC Channel 53**

Coordinates (NAD-27)	30° 12' 48" N-Lat 91° 45' 58" W-Lon
Channel	53
Effective Radiated Power	5000 kW (non-directional)
Antenna Height	307.2 m AGL 309.6 m AMSL 306.8 m HAAT

A study of distances to other NTSC facilities from the proposed transmitter site is supplied as **Table 1**. As shown thereon, the minimum distance separation requirements of §73.610 and §73.698 are met.

The proposed site is located at an insufficient distance to certain metropolitan areas to satisfy the requirements of the FCC's July 17, 1987 "freeze" Order regarding spectrum for advanced television. The nearest metropolitan areas (of those identified in the "freeze" Order) are summarized below.

<u>City</u>	<b>Distance to Reference Point (km)</b>
New Orleans, LA	166.2
Houston, Texas	350.5
Dallas, Texas	556.3
Fort Worth, Texas	598.7

The proposed site is in Zone III, as defined under §73.609. Accordingly, the minimum co-channel separation distance for UHF stations is 329.0 km, per §73.610(b). Thus, the proposed site is within the "freeze" area for New Orleans, LA.

In the pending *Iberia Communications L.L.C.* application, a waiver of the 1987 freeze order was requested. Considering that the Commission's final digital television ("DTV") allotment table has been released,<sup>2</sup> an evaluation can be made of the impact of the proposed Channel 53 facility on DTV allotments. The nearest co-channel DTV allotment to the proposed site is that for KWTX-DT (Waco, TX, at a distance of 545.4 km). The nearest first-adjacent DTV facilities are those for WJTV-DT (Ch. 52, Jackson, MS, 259.5 km), KNWS-DT (Ch. 52, Katy, TX, 368.0 km), and WABG-DT (Ch. 54, Greenwood, MS, 369.0 km). These stations are at distances that exceed the minimum "culling" distances specified for evaluation of interference to UHF DTV stations (429 km for co-channel and 229 km for first-adjacent channel) by the Commission.<sup>3</sup> Thus, no interference is predicted to any DTV station, allotment, or proposal. This proposal is therefore believed to be in compliance with current Commission Rules and policy with respect to protection of DTV stations.

Accordingly, based on the results of this study, it is believed that there will be no impact to DTV assignments as a result of the instant proposal. If a waiver of the Commission's 1987 Freeze Order is required, then one is respectfully requested on behalf of *Iberia*.

### **Summary**

It is proposed that NTSC Channel 53 be allotted to New Iberia, as a substitute for Channel 36. The proposed site complies with minimum distance spacing requirements with respect to other NTSC facilities. The substitution will not impact any DTV facility. Principal community coverage to New Iberia is provided.

### **Certification**

Under the penalty of perjury, the undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Davis, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old

---

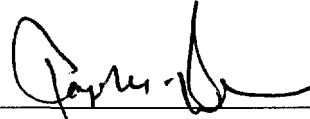
<sup>2</sup>MM Docket 87-268 Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, FCC 98-315, released December 18, 1998.

<sup>3</sup>See Public Notice "*Additional Application Processing Guidelines for Digital Television*," August 10, 1998.

Engineering Statement

(page 5 of 5)

Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that entity.

A handwritten signature in black ink, appearing to read "Joseph M. Davis", is written over a horizontal line.

Joseph M. Davis, P.E.

February 23, 2000

Cavell, Mertz & Davis, Inc.  
10300 Eaton Place Suite 200  
Fairfax, VA 22030  
(703) 591-0110

Table 1  
**NTSC FACILITY SPACING STUDY**  
 prepared for  
**Iberia Communications, L.L.C.**  
 New Iberia, Louisiana  
 Ch. 53 5000 kW 307 m

Channel	Call		City	State	Lat	Distance	Regrd
Applicant/Licensee					Long	Bearing	Clear
=====							
38+	WNOLTV	LIC	Zn:3 NEW ORLEANS	, LA	29-58-41	177.90	119.9
	TVX OF NEW ORLEANS, INC.		5000.00 kW	311M	89-56-26	97.97	58.00
48Z	WNTZ	LIC	Zn:3 NATCHEZ	, MS	31-40- 8	161.53	31.4
	WHITE KNIGHT B/CING. OF NATCHEZ		2820.00 kW	316M	91-41-30	2.51	130.13
50-		ADD	Zn:3 PLAQUEMINE	, LA	30-25-11	82.02	31.4
	FANT BROADCAST DEVELOPMENT L.L.C.		0.00 kW	0M	90-56-50	73.60	50.62
52Z		ADD	Zn:2 EL DORADO	, AR	32-46-49	291.08	87.7
	ARKANSAS EDUCATIONAL TV COMMISSION		0.00 kW	0M	92-24-31	348.06	203.38
53Z	WPAN	LIC	Zn:3 FORT WALTON BEACH	, FL	30-24- 9	459.59	329.0
	JOHN FRANKLIN MINISTRIES, INC.		3090.00 kW	219M	86-59-35	86.19	130.59
54+	WUPL	LIC	Zn:3 SLIDELL	, LA	30-17- 8	179.30	87.7
	VIACOM BROADCASTING OF SEATTLE INC.		4370.00 kW	213M	89-54-18	86.97	91.60

